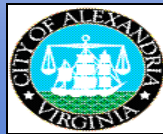


# Northern Virginia Long-Term Care Ombudsman Program (NVLTCOP)



*Serving the Jurisdictions of Alexandria, Arlington, Fairfax, and Loudoun, through their Area Agencies on Aging*



## THE UPDATE

Volume 7 Issue 5 October 2013



October is Resident Rights Month, which focuses on and celebrates awareness of the dignity, respect and the value of each individual person in long-term care facilities or receiving home health care services. For 2013, the theme is "Speaking Out Against Elder Abuse." The goal is to encourage residents and others to be educated about and to speak out against elder abuse. Abuse is the willful infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or mental anguish. It can be an intentional act or failure to act that could result in harm to the adult.

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Things to look for that would indicate physical or mental abuse are:

- Sudden changes in resident behavior, such as showing fear, suspicion, unwillingness to talk, or mood changes
- Loss of interest in things by the resident, or a change in their activity level
- Staff or family cursing, making fun of, ignoring, threatening, belittling or controlling the person
- Hitting, pinching, shoving, scratching, slapping, spitting, rough handling or force feeding
- Bruises, skin tears, swelling, or fractures

Financial exploitation refers to taking a resident's property without their knowledge or approval, with the intent of taking unfair advantage of the person and their resources. This can be done by the use of undue influence, coercion, harassment, deception or false representation.

Signs to look for indicating financial exploitation:

- Resident gives repeated "gifts" or "loans" of money to family, friends or staff.
- Person gives away personal possessions to family, friends or staff.
- Family or staff person asks resident for money or personal items, or takes money or medications without asking.
- Family or staff person barter with the elder - "I'll do this for you if you'll give me that TV, or pen, or \$5."
- Staff person "borrows" personal items, such as adult briefs, lotions, candy, without permission
- Telephone scams by persons outside the facility to the resident
- Collections notices coming to senior in the mail - may be an indication of identity theft.
- Staff uses individual resident's computer or cell phone



## **Residents' Bill of Rights**

**Resident Rights are guaranteed by the federal 1987 Nursing Home Reform Law. You have the right to:**

- Be informed of your rights, rules and regulations governing your care, conduct and responsibilities
- Be informed of available services and related charges
- Participate in planning your care and treatment.
- Be informed of reasons for transfer or discharge and be given reasonable advance notice
- Voice grievances and recommend changes in policy
- Manage your personal financial affairs
- Be free from mental and physical abuse and from unauthorized chemical and physical restraints
- Confidential treatment of personal and medical records and have a say in their release
- Be treated with recognition of dignity, individuality and privacy
- Not perform services for the facility without your consent
- Have private communication with persons of your choice, to send and receive unopened mail
- Participate in social, religious and community activities
- Maintain and use personal clothing and possessions as space permits
- Have privacy for visits with your spouse, family and friends
- Have information on the rights and responsibilities of residents posted in a visible place

The Northern Virginia area has many diverse cultures. Residents' Rights are available in English, French, Hindi, Korean, Spanish, and Russian at the Consumer Voice website: [www.consumervoice.org](http://www.consumervoice.org).

## WHAT HAPPENS TO RESIDENTS' RIGHTS DURING AN EMERGENCY?



The National Consumer Voice for Quality Nursing Home Care has information in the event of a nursing facility closure or a natural disaster. The facility should have an emergency plan in place and be doing regular emergency drills for all shifts. All staff must be prepared to stay on duty. Facilities must have generators and a backup plan. This could involve making arrangements to transfer to a nearby facility.

Certain Resident Rights needing special attention are:

- ♦ Under being treated with respect, dignity, and consideration—residents should be properly dressed or covered up and provided verbal reassurance.
- ♦ For privacy and confidentiality—every attempt should be made to keep resident's personal information confidential, while at the same time, making sure that their identifying information goes with them.
- ♦ Freedom from abuse and restraints—careful monitoring needs to be done to avoid chemical and physical restraints.
- ♦ Residents should be given contact information for Ombudsmen, state regulators, Center for Medicare Services, and legal services.
- ♦ Residents should be notified of a relocation/evacuation with as much advance notice as possible and have their options made known to them.
- ♦ Freedom to make complaints and express their feelings about the relocation.
- ♦ Right to keep possessions and to be kept aware of where their personal belongings are located and protected during a disaster.

## Health Insurance Portability and Accountability (HIPAA)

A new rule regarding the Health Insurance Portability and Accountability Act (HIPAA) improves patient's privacy protections, provides individuals new rights to their health information and strengthens the government's ability to enforce the law. The changes involve expanding HIPAA requirements to business associates, such as healthcare contractors, in addition to healthcare providers, health plans and those that process health insurance claims which were already included.

The new rule extends individual rights in the following ways:

- Patients can ask for a copy of their electronic medical record in an electronic format.
- When individuals pay in cash for the health care, they can tell the provider not to share information about the service with their health plan.
- New limits are set on how information is used and disclosed for marketing and fundraising purposes. The sale of health information about an individual without their permission is prohibited.
- Enforcement ability by the Dept. of Health and Human Services is strengthened under this new rule.
- It will be easier for parents and others to give permission to share immunization records with a school.
- The rule clarifies that genetic information is protected under the HIPAA Privacy Rule. It prohibits most health plans from using or disclosing genetic information for underwriting purposes.

Source: U.S. Department of Health and Human Services News Release. January 17, 2013.

## **U.S. Department of Health and Human Services and the Defense of Marriage Act**

On August 29, 2013, the Department of Health and Human Services (HHS) announced that “all beneficiaries in private Medicare plans will have access to equal coverage when it comes to care in a nursing home where their spouse lives.”

The HHS Secretary, Kathleen Sebelius, announced that this is the first of many steps to be taken “to ensure that gay and lesbian married couples are treated equally under the law.”

This announcement is in response to the Supreme Court decision that held that section 3 of the Defense of Marriage Act was unconstitutional. Prior to this decision, same-sex marriage partners did not have equal access to coverage in a nursing home that their spouse resides in.

Medicare beneficiaries covered by a Medicare Advantage plan, can now choose to receive care at the same skilled nursing facility where their spouse is, or they can choose another facility. The spouse must meet the conditions for skilled nursing facilities. It also depends on the facility's agreement to accept the payment amount and other terms of a skilled nursing facility in the plan network.

Previous to this decision, a senior in a same-sex marriage would have had to go to a nursing home away from their spouse, or would have had to pay more out-of-pocket expenses for care if they chose the same nursing home as their spouse.

This guidance by HHS ensures that Medicare provides equal access to coverage regardless of the spouse's sexual orientation, and that it applies equally to couples who are in a legally recognized same-sex marriage.

## **Need Information or Have a Concern About Nursing or Assisted Living Facilities?**

### **Northern Virginia Long-Term Care Ombudsman Program**

12011 Government Center Parkway,  
Suite 708

Fairfax, VA 22035

Offices hours are Monday through Friday  
from 8:00 a.m. to 4:30 p.m.

**Intake Line: 703-324-5861 TTY: 711**

Fax: 703-653-1796

Email us at:

[NVLT COP@FairfaxCounty.Gov](mailto:NVLT COP@FairfaxCounty.Gov)

**To view information on the NVLT COP website and to see the Investigation and Complaint Log, please go to:**

[www.FairfaxCounty.Gov/LTC Ombudsman](http://www.FairfaxCounty.Gov/LTC Ombudsman)

### **What an Ombudsman does:**

- ♦ **Advocates** for improving the quality of life for persons receiving long-term care services
- ♦ **Resolves complaints** against long-term care providers through **counseling, negotiation, and investigation**
- ♦ **Provides information** about long-term care providers to help make an informed decision
- ♦ **Educates** the community about long-term care issues
- ♦ **Visits** residents of long-term care facilities on a weekly basis through our volunteer program
- ♦ **Trains** long-term care staff on long-term care related information
- ♦ **Consults** with providers





## GET TO KNOW LAURA NICHOLS, DIRECTOR OF THE NORTHERN VIRGINIA LONG-TERM CARE OMBUDSMAN PROGRAM

In a recent interview, Laura Nichols, Director of the Northern Virginia Long-Term Ombudsman Program (NVLTCOP) was asked about what lessons she has learned in 14 years working in the Ombudsman Program. When there is a concern about a resident's experience in a nursing or assisted living facility, Laura suggests researching the situation and educating oneself on what is required and what is optional. Also it is important for all parties to look at all aspects of the situation – including the view point of the resident, the family and facility staff's view point – and even the licensing agency's. She also suggests thinking outside the box for solutions that might be a new approach to the situation.

When asked what keeps her motivated, Laura said that seeing residents in long-term care and their families and wanting to do what's best for them is her biggest motivator. They remind her of her grandparents who were a very positive influence in her life. In addition, the residents motivate her to provide education and outreach on issues the elderly face in as many formats as possible. An example is the NVLTCOP section of the Fairfax County website, which provides round-the-clock information on long-term care issues and the "UPDATE," the bi-monthly newsletter.

Laura is on the Board of the National Association of Local Long-Term Care Ombudsman Programs (NALLTCO) and is the Virginia State Coordinator. Recently, Laura was part of a national broadcast National Public Radio (NPR) on the Ombudsman Program, which can be seen on the WAMU website. She has also taped a video through Fairfax County's Channel 16 that can be seen on the NVLTCOP website: [www.fairfaxcounty.gov/LTCOmbudsman](http://www.fairfaxcounty.gov/LTCOmbudsman). Laura's dedication to and knowledge of the Ombudsman Program has been recognized in many milieus.

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**Fairfax Caregiver Seminar Consortium presents its Fall 2013 series** which is designed to help family caregivers of older adults and/or adults with a disability manage the day-to-day issues that caregiving presents. To register, visit [www.fairfaxcounty.gov/DFS/OlderAdultServices](http://www.fairfaxcounty.gov/DFS/OlderAdultServices), or call 703-324-5205, TTY 711. To request reasonable ADA accommodations, call 703-324-5868, TTY 711.

**"When Home Is No Longer an Option":** Your loved one wants to remain at home and be independent; however, sometimes moving to assisted living or a nursing home is necessary. Let's talk about this in a webinar on October 31, from noon to 1 p.m., given by Long-Term Care Ombudsman Kathy Jones. You may join this webinar by computer or telephone. You will receive an email with access instructions after you register per the instructions above.

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The Northern Virginia Long-Term Care Ombudsman Program is committed to a policy of nondiscrimination in all programs and services. To request reasonable accommodations or alternate formats, call 703-324-5861 (voice); 711 (TTY).

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